

To: Chung, Angela[Chung.Angela@epa.gov]; Szelag, Matthew[Szelag.Matthew@epa.gov]
From: Guzzo, Lindsay
Sent: Mon 3/6/2017 6:53:25 PM
Subject: RE: WA Toxic Criteria and AWB Petitions

My guess would be this is the comment that is referred to, and it is from for the previous ISGP (effective 2010). It is good to note that NOAA did not comment on the most recent version of the ISGP (effective 2015).

NOAA:

Adverse effects of dissolved copper and zinc on listed salmon occur at very low levels (values ranging from 0.18 to 2.1 µg/L in freshwater for copper (Hecht et. al, 2007) and at 5.6 µg/L in freshwater for zinc (Sprague 1968)). Adverse effects of copper include interference with fish sensory systems and important behaviors that underlie predator avoidance, juvenile growth and migratory success. These effects occur at pollutant levels that are 6 to 77 times lower than the proposed benchmark level for total copper (14 µg/L). In addition, the proposed benchmark level for zinc in this permit (200 and 255 µg/L total Zn) is higher than the level proposed for the 2007 Industrial permit (115 µg/L total Zn). We do not believe these proposed benchmark levels avoid more than minor detrimental effects to listed salmon and steelhead. Similarly, adverse effects of zinc include altered behavior, blood and serum chemistry, impaired reproduction, and reduced growth. These effects occur at pollutant levels that are 35 and 45 times lower than the proposed total zinc benchmark levels (200 µg/L for Western Washington and 255 µg/L for Eastern Washington).

Ecology's response:

The benchmarks used in this permit are derived using existing Washington State Surface Water Quality Standards. Ecology understands the adverse affects of copper on salmonids at very low levels. However, since the benchmarks are measured "end-of-pipe" (100% stormwater runoff) rather than in the actual receiving waters where salmon are present, believe that copper and zinc may be discharged at the benchmark levels without causing excursions of the water quality standards 90% of the time.

The other comments (with responses) received at the same time from NOAA:

NOAA:

Ecology determined that the proposed benchmarks and action levels should be considered based on a dilution factor of 5 and a 10 percent risk for exceeding the applicable water quality standard for each metal. While this may be a viable approach for setting benchmark levels across a broad range of facility types and receiving waters, it is not an approach that provides adequate protection for listed salmon. We cannot accurately assume that a dilution factor of 5 will always be provided where listed salmon are

present.

Ecology:

The use of a dilution factor in deriving the benchmark is not considered the authorization of a mixing zone, but Ecology has determined that a modest dilution factor 5 is consistent with WAC 173-201A-400. Based upon Ecology's best professional judgment and experience under the previous permit cycle, Ecology has determined that in order to meet the proposed copper and zinc benchmarks, permittees will be required to fully apply AKART, and many will be required to install active stormwater treatment systems.

NOAA:

With the proposed benchmark level for zinc set at a level that does not provide protection necessary for salmon growth and survival, and with copper being identified as a widespread pollutant in industrial facilities, we do not believe using zinc as a surrogate of copper and limiting copper monitoring to 5 sectors will adequately protect listed salmon.

Ecology:

Ecology has decided to apply copper monitoring as a core sampling parameter for all facilities.

Lindsay Guzzo

Lindsay Guzzo

US EPA

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guzzo.lindsay@epa.gov

From: Chung, Angela
Sent: Monday, March 06, 2017 10:06 AM
To: Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: WA Toxic Criteria and AWB Petitions

Hi Lindsay,

Can you find out more about the Services' comments on the industrial stormwater general permit – or Matt, do you know about NWEA's points about that already? I'm not aware of the Services comments on the general permit. I recall there being some issues that the Services identified but I thought it was on a specific permit (maybe Longview?). Thanks.

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Fleisig, Erica
Sent: Sunday, March 05, 2017 8:45 PM
To: Berol, David <Berol.David@epa.gov>; Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>
Cc: Schroer, Lee <schroer.lee@epa.gov>
Subject: RE: WA Toxic Criteria and AWB Petitions

Ex. 5 - Attorney Client

-Erica

From: Berol, David

Sent: Friday, March 03, 2017 3:35 PM

To: Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

Cc: Schroer, Lee <schroer.lee@epa.gov>

Subject: RE: WA Toxic Criteria and AWB Petitions

Attorney-Client Privileged; Deliberative

All –

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

David Berol

U.S. EPA Office of General Counsel

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-----Original Appointment-----

From: Crk, Tanja

Sent: Thursday, February 23, 2017 9:59 AM

To: Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter

Cc: Schroer, Lee

Subject: WA Toxic Criteria and AWB Petitions

When: Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: HQ-Room-WJCW-6124-50pp

Ex. 6 - Personal Privacy

Note that this is an EPA (internal) meeting for staff and BCs to discuss two petitions: 1) the complaint by NWEA regarding EPAs response (or failure to respond) to the NWEA petition to update the WQC for toxics in WA and includes a no action reference on arsenic, dioxin, and thallium; and 2) the AWB petition to withdraw the federal rule in WA.

Ex. 5 - Deliberative Process

Agenda

1. Discuss the WA petition from NWEA

[NWEA petition response.pdf](#)

Response to NWEA May 2016. Is there an email record of sending this petition response to Nina?

2. Discuss the AWB petition